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Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XIV

DISCIPLINARY MEASURES

Modifications etc. (not altering text)

- C1** Pt. XIV (ss. 205-211) applied (1.12.2001) by 1951 c. 65, s. 57(5) (as substituted (1.12.2001) by S.I. 2001/3647, art. 5, Sch. 3 Pt. I para. 5(3))

205 Public censure.

If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act [^{F1}or by any directly applicable Community regulation [^{F2}or decision] made under the markets in financial instruments directive [^{F3}or the UCITS directive],] the Authority may publish a statement to that effect.

Textual Amendments

- F1** Words in s. 205 inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(5), Sch. 5 para. 10
- F2** Words in s. 205 inserted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), reg. 2(11)(a)
- F3** Words in s. 205 inserted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), reg. 2(11)(b)

Modifications etc. (not altering text)

- C2** S. 205 modified (1.12.2001) by S.I. 2001/2657, arts. 1(1), 6, 7 (which was revoked (8.10.2001) by S.I. 2001/3083, arts. 1(2), 23); S.I. 2001/3538, art. 2(1)
- S. 205 modified (1.12.2001) by S.I. 2001/3083, arts. 1(1), 6, 7; S.I. 2001/3538, art. 2(1)
- S. 205 excluded (1.12.2001) by S.I. 2001/3592, arts. 1(2), 107(1) (with art. 23(2))

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- C3** S. 205 modified (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), regs. 1, **12(1)**

206 Financial penalties.

- (1) If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act, [^{F4}or by any directly applicable Community regulation [^{F5}or decision] made under the markets in financial instruments directive [^{F6}or the UCITS directive,] it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate.
- (2) ^{F7}.....
- (3) A penalty under this section is payable to the Authority.

Textual Amendments

- F4** Words in s. 206(1) inserted (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), **Sch. 5 para. 11**
- F5** Words in s. 206(1) inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(11)(a)**
- F6** Words in s. 206(1) inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(11)(b)**
- F7** S. 206(2) omitted (8.6.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), **ss. 10**, 26(2)

Modifications etc. (not altering text)

- C4** S. 206 excluded (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 107(1) (with [art. 23\(2\)](#))
S. 206 restricted (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 60(2) (with [art. 23\(2\)](#))
S. 206 modified (1.12.2001) by [S.I. 2001/2657](#), **arts. 1(1)**, 8 (which was revoked (8.10.2001) by [S.I. 2001/3083](#), **arts. 1(2)**, 23); [S.I. 2001/3538](#), **art. 2(1)**
S. 206 modified (1.12.2001) by [S.I. 2001/3083](#), **arts. 1(2)**, 8; [S.I. 2001/3538](#), **art. 2(1)**
- C5** S. 206 modified (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), regs. 1, **12(1)**

^{F8} ^{F8}**206A** Suspending permission to carry on regulated activities etc

- (1) If the Authority considers that an authorised person has contravened a relevant requirement imposed on the person, it may—
- suspend, for such period as it considers appropriate, any permission which the person has to carry on a regulated activity; or
 - impose, for such period as it considers appropriate, such limitations or other restrictions in relation to the carrying on of a regulated activity by the person as it considers appropriate.
- (2) In subsection (1)—
- “permission” means any permission that the authorised person has, whether given (or treated as given) by the Authority or conferred by any provision of this Act;

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- “relevant requirement” means a requirement imposed—
- (a) by or under this Act; ^{F9} . . .
 - (b) by any directly applicable Community regulation made under the markets in financial instruments directive.
 - (c) [^{F10}by the Payment Services Regulations 2009; ^{F11} . . .
 - (d) by the Electronic Money Regulations 2011][^{F12}or].
 - (e) [^{F13}by any directly applicable Community regulation or decision made under the UCITS directive;
- (3) The period for which a suspension or restriction is to have effect may not exceed 12 months.
- (4) A suspension may relate only to the carrying on of an activity in specified circumstances.
- (5) A restriction may, in particular, be imposed so as to require the person concerned to take, or refrain from taking, specified action.
- (6) The Authority may—
- (a) withdraw a suspension or restriction; or
 - (b) vary a suspension or restriction so as to reduce the period for which it has effect or otherwise to limit its effect.
- (7) The power under this section may (but need not) be exercised so as to have effect in relation to all the regulated activities that the person concerned carries on.
- (8) Any one or more of the powers under—
- (a) subsection (1)(a) and (b) of this section, and
 - (b) sections 205 and 206,
- may be exercised in relation to the same contravention.]]]

Textual Amendments

- F8** S. 206A inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 9, 26(2)**
- F9** S. 206A(2): word in definition of "relevant requirement" omitted (9.2.2011 for certain purposes and 30.4.2011 otherwise) by virtue of [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, **Sch. 4 para. 2(2)** (with reg. 3)
- F10** S. 206A(2)(c)(d) inserted (9.2.2011 for certain purposes and 30.4.2011 otherwise) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, **Sch. 4 para. 2(2)** (with reg. 3)
- F11** S. 206A(2): definition of "relevant requirement" para. (c) word omitted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(12)(a)**
- F12** S. 206A(2)(d): definition of "relevant requirement" word in para. (d) inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(12)(b)**
- F13** S. 206A(2): definition of "relevant requirement" para. (e) inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(12)(c)**

207 Proposal to take disciplinary measures.

- (1) If the Authority proposes—

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- (a) to publish a statement in respect of an authorised person (under section 205),^{F14} . . .
- (b) to impose a penalty on an authorised person (under section 206),^{F15} or
- (c) to suspend a permission of an authorised person or impose a restriction in relation to the carrying on of a regulated activity by an authorised person (under section 206A),]

it must give the authorised person a warning notice.

- (2) A warning notice about a proposal to publish a statement must set out the terms of the statement.
- (3) A warning notice about a proposal to impose a penalty, must state the amount of the penalty.
- ^{F16}(4) A warning notice about a proposal to suspend a permission or impose a restriction must state the period for which the suspension or restriction is to have effect.]

Textual Amendments

- F14** Word in s. 207(1) omitted (8.6.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 18\(2\)](#)
- F15** S. 207(1)(c) and preceding word inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 18\(2\)](#)
- F16** S. 207(4) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 18\(3\)](#)

Modifications etc. (not altering text)

- C6** S. 207 excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 61(5), 110(6) (with [art. 23\(2\)](#))
- C7** S. 207 modified (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), [regs. 1, 12\(1\)](#)

208 Decision notice.

- (1) If the Authority decides—
 - (a) to publish a statement under section 205 (whether or not in the terms proposed),^{F17} . . .
 - (b) to impose a penalty under section 206 (whether or not of the amount proposed),^{F18} or
 - (c) to suspend a permission or impose a restriction under section 206A (whether or not in the manner proposed),]
 it must without delay give the authorised person concerned a decision notice.
- (2) In the case of a statement, the decision notice must set out the terms of the statement.
- (3) In the case of a penalty, the decision notice must state the amount of the penalty.
- ^{F19}(3A) In the case of a suspension or restriction, the decision notice must state the period for which the suspension or restriction is to have effect.]
- (4) If the Authority decides to—
 - (a) publish a statement in respect of an authorised person under section 205,^{F20} . . .

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- (b) impose a penalty on an authorised person under section 206,^[F21] or
- (c) suspend a permission of an authorised person, or impose a restriction in relation to the carrying on of a regulated activity by an authorised person, under section 206A,]

the authorised person may refer the matter to the Tribunal.

Textual Amendments

- F17** Word in s. 208(1) omitted (8.6.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 19\(2\)](#)
- F18** S. 208(1)(c) and preceding word inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 19\(2\)](#)
- F19** S. 208(3A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 19\(3\)](#)
- F20** Word in s. 208(4) omitted (8.6.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 19\(4\)](#)
- F21** S. 208(4)(c) and preceding word inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 19\(4\)](#)

Modifications etc. (not altering text)

- C8** S. 208 excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 61(5), 110(6) (with [art. 23\(2\)](#))
- C9** S. 208 modified (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), [regs. 1, 12\(1\)](#)
- C10** S. 208(1)(a)(b) modified (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 68(2), 69(2) (with [art. 23\(2\)](#))

209 Publication.

After a statement under section 205 is published, the Authority must send a copy of it to the authorised person and to any person on whom a copy of the decision notice was given under section 393(4).

Modifications etc. (not altering text)

- C11** S. 209 modified (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), [regs. 1, 12\(1\)](#)

210 Statements of policy.

- (1) The Authority must prepare and issue a statement of its policy with respect to—
 - ^[F22](a) the imposition of penalties, suspensions or restrictions under this Part;
 - (b) the amount of penalties under this Part; and
 - (c) the period for which suspensions or restrictions under this Part are to have effect.]
- (2) The Authority's policy in determining what the amount of a penalty should be ^[F23], or what the period for which a suspension or restriction is to have effect should be,] must include having regard to—

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- (a) the seriousness of the contravention in question in relation to the nature of the requirement contravened;
 - (b) the extent to which that contravention was deliberate or reckless; and
 - (c) whether [^{F24}the person against whom action is to be taken] is an individual.
- (3) The Authority may at any time alter or replace a statement issued under this section.
- (4) If a statement issued under this section is altered or replaced, the Authority must issue the altered or replacement statement.
- (5) The Authority must, without delay, give the Treasury a copy of any statement which it publishes under this section.
- (6) A statement issued under this section must be published by the Authority in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (7) In exercising, or deciding whether to exercise, its power under section 206 [^{F25}or 206A] in the case of any particular contravention, the Authority must have regard to any statement published under this section and in force at the time when the contravention in question occurred.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of the statement.

Textual Amendments

- F22** S. 210(1)(a)-(c) substituted (8.6.2010) for s. 210(1)(a)(b) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 20\(2\)](#)
- F23** Words in s. 210(2) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 20\(3\)\(a\)](#)
- F24** Words in s. 210(2)(c) substituted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 20\(3\)\(b\)](#)
- F25** Words in s. 210(7) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(2)(d)(e), [Sch. 2 para. 20\(4\)](#)

Modifications etc. (not altering text)

- C12** S. 210 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), [reg. 36](#)
- C13** S. 210 applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), [regs. 1\(2\), 86\(6\)](#) (with [reg. 3](#))
- C14** S. 210 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), [reg. 19](#), [Sch. para. 3](#)
- C15** S. 210 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), [reg. 22\(2\)](#)
- C16** S. 210 applied (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), [reg. 53\(6\)](#) (with [reg. 3](#))
- C17** S. 210(7) excluded (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\), 110\(6\)](#) (with [art. 23\(2\)](#))

211 Statements of policy: procedure.

- (1) Before issuing a statement under section 210, the Authority must publish a draft of the proposed statement in the way appearing to the Authority to be best calculated to bring it to the attention of the public.

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- (2) The draft must be accompanied by notice that representations about the proposal may be made to the Authority within a specified time.
- (3) Before issuing the proposed statement, the Authority must have regard to any representations made to it in accordance with subsection (2).
- (4) If the Authority issues the proposed statement it must publish an account, in general terms, of—
 - (a) the representations made to it in accordance with subsection (2); and
 - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant, the Authority must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.

Modifications etc. (not altering text)

- C18** S. 211 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), **reg. 36**
- C19** S. 211 applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), **regs. 1(2), 86(6)** (with **reg. 3**)
- C20** S. 211 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), **reg. 19, Sch. para. 3**
- C21** S. 211 applied (with modifications) (7.6.2010) by [The Credit Rating Agencies Regulations 2010 \(S.I. 2010/906\)](#), **reg. 22(2)**
- C22** S. 211 applied (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), **reg. 53(6)** (with **reg. 3**)

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